

## Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 L-03 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 CIEP-01 FAA-00 SSO-00

INRE-00 /027 W

----- 118607

O R 161315Z NOV 76

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 8691

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

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E.O. 11652: N/A

TAGS: EAIR, BR

SUBJ: TIA/WORLD CHARTER PROGRAMS TO BRAZIL

REF: (A) STATE 254163; (B) RIO 4239

1. SUMMARY. TIA ATTORNEY RIO HAS NOW RECEIVED CHARTER FLIGHT PROGRAM FOR SUBMISSION TO DAC. FACT THAT PROGRAM DOES NOT INCLUDE ANY NON-GATEWAY CITY FLIGHTS LIKELY TO CAUSE DIFFICULTIES. END SUMMARY.

2. OCT. 29, 1976, CONGEN RIO OFFICER DISCUSSED SUBJECT PROGRAMS WITH DAC AND FOUND THAT WORLD PROGRAM HAD BEEN ROUTINELY APPROVED AND NO TIA APPLICATIONS WERE THEN PENDING, THUS CONFIRMING INFO FROM TIA WORLD ATTORNEY REPORTED IN REFTEL B. GIVEN ABOVE, CONGEN OFFICERS DID NOT MAKE USE OF TALKING POINTS IN REFTEL A PARA 3 AT THAT TIME. VISIT TO DAC WAS CHARACTERIZED BY CONGEN OFFICER AS INFORMAL INQUIRY.

3. SINCE THEN TIA RIO LAWYER INFORMED CONGEN THAT HE HAS RECEIVED A REQUEST FROM TIA TO SUBMIT A PROGRAM OF SEVEN CHARTERS -- ALL OF WHICH ARE SCHEDULED TO ORIGINATE FROM NEW YORK CITY. TIA LAWYER FELT THAT DAC WOULD VIEW THIS

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AS A DIRECT PROVOCATION SINCE IT IS DIRECTLY CONTRARY TO

THE DAC'S POLICY. HE CONTACTED OAKLAND HEAD OFFICE, TO INFORM TIA THAT IN HIS VIEW REQUEST WILL PROBABLY BE DENIED AS IT CONTAINS NO NON-GATEWAY FLIGHTS AT ALL. ATTORNEY HAS ASKED FOR CONGEN SUPPORT IF OAKLAND MAINTAINS ITS INSTRUCTION.

3. COMMENT. EMBASSY AGREES WITH ATTORNEY'S JUDGMENT THAT TIA REQUEST, IN ITS PRESENT FORM (I.E. WITHOUT ANY NON-GATEWAY FLIGHTS) CAN WELL BE INTERPRETED BY DAC AS A PROVOCATIVE CHALLENGE TO ITS POLICY, AND THAT DAC'S REACTION MAY BE SHARP. OVER PAST YEAR AND A HALF, NON-SKEDS HAVE DE FACTO ACCEPTED DAC POLICY IN SUBMITTING CHARTER FLIGHT PROGRAMS WITH PREPONDERANCE OF FLIGHTS ORIGINATING IN NON-GATEWAY CITIES. THUS, PRESENT TIA REQUEST REPRESENTS BREAK WITH ESTABLISHED PATTERN. CONVERSELY, WE ESTIMATE THAT TIA WOULD HAVE BETTER CHANCE OF GETTING ITS PROGRAM ACCEPTED IF IT WOULD ADD FLIGHTS FROM NON-GATEWAY CITIES. IF TIA, IN FACT, IS PLANNING IN ITS OVERALL PROGRAM SUCH NON-SCHEDULED FLIGHTS, AMENDMENT OF REQUEST TO INCLUDE SUCH FLIGHTS MAY BE THE EASIEST WAY FOR TIA TO DEAL WITH THIS PROBLEM.

4. WE ALSO ASSUME CAB'S INTENTION TO LINK CONSIDERATION OF VARIG CHARTERS TO BRAZILIAN TREATMENT OF US NON-SKED CHARTERS (REFTEL A PARA 4) REFERS TO PASSENGER CHARTERS ONLY (PARA 3.C.). EXTENSION OF THIS APPROACH TO FREIGHT CHARTERS WOULD MAGNIFY PROBLEM CONSIDERABLY. VARIG OPERATES PROFITABLE FREIGHT CHARTER BUSINESS, BUT SO DO NON-SKEDS WHICH ARE OFTEN GRANTED FLIGHT CLEARANCE BY DAC ON VERY SHORT NOTICE OR WITH INSUFFICIENT INFORMATION IN TERMS OF THE REQUIREMENTS OF BRAZILIAN LAW. END COMMENT.

5. UNLESS DEPARTMENT INSTRUCTS OTHERWISE IN VIEW OF THE ABOVE, EMBASSY AND CONGEN WILL MAKE PRESENTATIONS TO FOREIGN MINISTRY, FINANCE MINISTRY AND DIRECTLY TO DAC, PURSUANT TO PARA 3 REFTEL IF TIA ATTORNEY'S INSTRUCTIONS ARE CONFIRMED.  
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